

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

KIRE MCCALVIN §
TDCJ #1100544 §
VS. § C.A. NO. C-07-054
NATHANIEL QUARTERMAN §

**ORDER GRANTING PETITIONER'S MOTION FOR
EXTENSION OF TIME TO PAY IN FULL APPELLATE FILING FEE**

By order entered July 30, 2007, the Court granted Respondent's motion for summary judgment and denied Petitioner's § 2254 petition for habeas corpus relief on the merits, and denied a certificate of appealability. (D.E. 23). Final judgment was entered on July 31, 2007. (D.E. 24). On August 9, 2007, Petitioner filed a notice of appeal. (D.E. 25). Petitioner now seeks leave to proceed *in forma pauperis* on appeal, or, in the alternative, an extension of time to pay the \$455.00 appellate filing fee. (D.E. 28, 29).

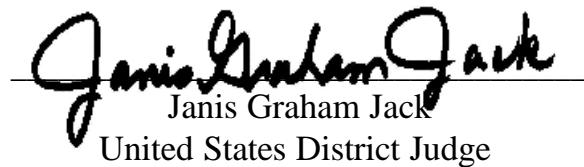
According to Petitioner's inmate trust fund statement, he currently has \$1,928.80 in his prison trust fund account. (D.E. 29 at 3). His average balance over the last six months was \$2,480.76. Id. Accordingly, Petitioner is not indigent. The Court finds that Petitioner can pay the \$455.00 appellate filing fee. His request for leave to proceed i.f.p. on appeal is DENIED.

In the alternate, Petitioner requests an additional forty (40) days within which to pay the appellate filing fee. (D.E. 28). Petitioner relates that on August 15, 2007, he authorized that the \$455.00 be withdrawn from his inmate trust fund account and forwarded to the Court; however, he was informed by prison officials that the process could take between four to eight weeks before the \$455.00 was actually paid to the Court. Id.

The Court finds that Petitioner's request for an extension of time to pay the filing fee is

reasonable and made in good faith, especially in light of the fact that he has already requested that the funds be withdrawn and paid to the Court. Accordingly, Petitioner's request for an extension of time to pay the appellate filing fee (D.E. 28) is GRANTED. Petitioner is afforded an additional forty (40) days from August 15, 2007, that is, until September 24, 2007, to pay in full the \$455.00 appellate filing fee.

ORDERED this 13th day of September, 2007.



Janis Graham Jack
United States District Judge